

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Group Art Unit: 3673

HERMES REYES CUADROS

Examiner: J. Liu

Serial No. 10/525,530

MAIL STOP AFTER FINAL

Filed: April 24, 2005

For: NEW STRUCTURE FOR A MATTRESS WITH VENTILATION

RESPONSE

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The following remarks are submitted in response to the final Office action mailed August 31, 2007.

Claims 5, 7 and 9 stand rejected under 35 USC 103(a) over Sohn et al in view of Blecker et al. This rejection is based upon the allegation that Sohn et al teaches a mattress comprising a central metallic spring unit on which is disposed a first sisal layer, a cotton layer, a plastic layer having a plurality of perforations therethrough, and an outer textile padded layer. It is further alleged that it would have been obvious to modify the plastic layer of Sohn et al with the rubber layer of Blecker et al to provide an alternative cushioning material known in the art.

In the previous Amendment, Applicant argued that Sohn et al teaches away from a symmetric mattress, and the present Office action argues that symmetry is well known in the art, as evidenced by Blecker et al and Haller. While Applicant agrees that symmetry in the mattress art is well known, the question here is not whether it is well known, but rather what is taught by the primary reference. Sohn et al clearly teaches against symmetry, stating specifically that it is

"among the objects of the invention to provide an improved inner-spring mattress having a rigid or resiliently pliable board or equivalent structure incorporated in one side only thereof, so that the mattress has a firm side and a soft side of conventional inner-spring construction, either side being usable as may be desired..." (Column 1, lines 36-42). It is therefore unquestionable that Sohn et al teaches away from the construction of the claimed invention; even though symmetric construction was clearly known at the time of the Sohn et al reference, Sohn et al teaches against using it. If one bases a mattress construction upon the teachings of Sohn et al, such mattress construction will clearly not be symmetrical.

The response to Applicant's arguments further states that regarding the argument that the resilient board of Blecker et al would not be rigid enough to serve as the bed board of Sohn et al, "it is noted that Sohn et al only require a resiliently pliable member (col 1, line 38). Thus, Bleckers' 'rubber pad' (col 2, line 26) clearly meets this limitation of being resiliently pliable."

It first must be noted that in describing the board used as "rigid or resiliently pliable," Sohn et al appears to be inherently contradictory, because "rigid" and "resilient" are substantially contradictory terms. "Rigid" implies that the board used is unyielding while "resilient" implies that the board does yield, but springs back to shape after yielding. However, if one reads Sohn et al as a whole, it is clear that a rigid material is what is intended, with Sohn et al disclosing "plywood or similar material" at column 1, line 12, and further stating that the invention aims to provide a "soft and rigid mattress, one side of which may be used to rigidly support a person having an injured or ailing back" at column 1, lines 30-33. The typical materials set forth for this bed board are plywood, sheet metal or a sheet of synthetic resin plastic which may be apertured or stamped to reduce its weight "while retaining the desired degree of rigidity."

It is clear from considering Sohn et al as a whole that the object is to provide a mattress in which one side is more rigid than the other side, and that rigidity is far more important than resiliency in terms of selecting the material for the bed board. The question remains as to whether the materials used by Blecker et al would fulfill the requirements of Sohn et al.

Applicant believes that the key to the consideration of Blecker et al lies in the discussion at column 2, lines 50-54, in which it is stated that "[a] further essential characteristic of the foams to be employed in the structures of this invention is that they be yieldable, i.e. resilient such that substantial deformation occurs upon application of mechanical pressure... [f]oams which do not compress to that extent are generally too rigid and hence do not afford a sufficient degree of resiliency."

Blecker et al thus teaches away from rigidity, and in favor of compressibility in selecting the foams to be used in the mattress of that invention. Sohn et al teaches just the opposite, that the bed board should be constructed of a material which is primarily rigid to satisfy the purposes of the Sohn et al invention. While rigidity and resiliency may be relative terms, and any material may found along a continuum between the two terms, it is clear that the emphasis of Sohn et al is on rigidity while the emphasis in Blecker et al is in compressibility.

Accordingly, one of ordinary skill in the art would not select a material such as is disclosed by Blecker et al as a bed board in the mattress of Sohn et al since such a material would not provide the kind of adequate support necessary and would not be thought of as a "bed board."

Withdrawal of this rejection is accordingly requested.

The Office action acknowledges Applicant's claim for foreign priority based upon Application CO 02075481, but notes that Applicant has not filed a certified copy of this

application.

The present application is a PCT National Stage application based upon PCT/IB2002/005748 filed on December 10, 2002. In connection with that application, a priority document was filed in the International Bureau. According to PCT rules, no separate priority document is filed when entering the National Stage. The Examiner's attention is directed to MPEP 1828 which states specifically that "[t]he IB will normally furnish copies of the certified copy to the various designated offices so that the applicant will not normally be required to submit certified copies to each designated office."

In view of the foregoing remarks, Applicants submits that the present application is now in condition for allowance, and an early allowance of the application is earnestly solicited.

Respectfully submitted,



Ira J. Schultz
Registration No. 28666
Attorney for Applicant
(703)837-9600, ext. 23